

## **REMARKS**

### Summary of Office Action

Claims 106-145 are pending in this application.

Claims 136-145 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 106-114, 116-124, 126-134 and 136-144 have been rejected under 35 U.S.C. § 103(a) as being obvious from Schein et al. U.S. Patent Application Publication No. 2003/0196201 ("Schein") in view of Hailey et al. U.S. Patent No. 7,533,400 ("Hailey"). Claims 115, 125, 135 and 145 have been rejected under 35 U.S.C. § 103(a) as being obvious from Schein and Hailey and in further view of Goldschmidt Iki et al. U.S. Patent No. 6,226,444 ("Goldschmidt").

### Summary of Applicants' Reply

Applicants have amended claims 136-145 in order to more particularly define the claimed invention. The claim amendments are fully supported by the originally-filed application, and no new matter has been added.

The Examiner's rejections are respectfully traversed.

### Reply to the Section 101 Rejection

Claims 136-145 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants have amended claims 136-145 in order to more particularly define the claimed invention. Applicants respectfully submit that claims 136-145, as amended, are not directed to non-statutory subject matter and respectfully request that the Section 101 rejection of claims 136-145 be withdrawn.

### Reply to the Prior Art Rejections

Claims 106-114, 116-124, 126-134 and 136-144 have been rejected under 35 U.S.C. § 103(a) as being obvious from Schein in view of Hailey. Claims 115, 125, 135 and 145 have been rejected under 35 U.S.C. § 103(a) as being obvious from Schein and Hailey and in further view of Goldschmidt. Applicants respectfully traverse these rejections.

The present application is entitled to a priority date of September 17, 1998 as a continuation U.S. Patent Application No. 10/383,281, filed on March 5, 2003 which is a continuation of U.S. Patent Application No. 09/157,256, filed on September 17, 1998.

Hailey is a U.S. Patent which issued on May 12, 2009 which is later than applicants' priority date of September 17, 1998. Accordingly, Hailey can only be used as prior art against this application if it is available as prior art under 35 U.S.C. § 102(e) ("the critical date"). Moreover, Hailey resulted from, or claimed the benefit of, an international application and accordingly the critical date of Hailey is governed by MPEP § 2136.03. More specifically, Hailey relies on an international PCT application that was filed on September 23, 1997 which is before November 29, 2000. Thus, Hailey's critical date is determined according to MPEP § 2136.03(II)(C)(1), which states that the reference is applicable under 35 U.S.C. § 102(e) as of the date of completion of the requirements of 35 U.S.C. 371(c) (1), (2) and (4). Therefore, because Hailey is a U.S. Patent which resulted from an international application that was filed before November 29, 2000 and completed the requirements of 35 U.S.C. 371(c) (1), (2) and (4) on October 5, 1999, the critical date applicable to Hailey is October 5, 1999.

Finally, since applicants' priority date of September 17, 1998 precedes Hailey's critical date of October 5, 1999, Hailey is not available as prior art against the present application.

Accordingly, applicants respectfully request withdrawal of the rejections of claims 106-145 under Section 103 that are based on Hailey.

#### Conclusion

The foregoing demonstrates that claims 106-145 are allowable. This application is therefore in condition for allowance. Reconsideration and prompt allowance are accordingly respectfully requested.

Respectfully submitted,

/Gall C. Gotfried/

---

Gall C. Gotfried  
Registration No. 58,333  
Attorney for Applicants  
Ropes & Gray LLP  
Customer No. 75563  
1211 Avenue of the Americas  
New York, NY 10036